

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

DAVID WEBSTER, ANNA SHIN, and ANDREW
BERGH, on behalf of themselves and all others
similarly situated,

Plaintiffs,

-against-

SMITHFIELD ASSOCIATES LLC d/b/a PASTIS
RESAURANT, WINDY GATES, SOHO, INC. d/b/a
BALTHAZAR RESTAURANT, and KEITH
MCNALLY,

Defendants.

Index No.: 08 CV 0166
(LTS)

NOTICE OF MOTION

PLEASE TAKE NOTICE that upon the accompanying Motion together with the Settlement Agreement and all agreements attached thereto, the undersigned will and hereby do move this Court before the Honorable Laura T. Swain, United States District Court, Southern District of New York, 500 Pearl Street, New York, NY 10007, on a date to be determined by the Court or as soon thereafter as counsel may be heard for an order preliminarily approving the class action settlement agreement and notice to the class.

Dated: September 3, 2008
New York, New York

JOSEPH & HERZFELD LLP

By: /s/ D. Maimon Kirschenbaum
D. Maimon Kirschenbaum (DK-2338)

Charles E. Joseph (CJ-9442)

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